

**REPORT OF THE TENNESSEE ATTORNEY GENERAL'S OFFICE  
IN RE: INVESTIGATION OF DISTRICT ATTORNEY GENERAL R. STEVEN BEBB**

On August 27, 2012, the Tennessee Attorney General's Office and the Tennessee Bureau of Investigation (TBI) stated that they were cooperating in an investigation of allegations related to R. Steven Bebb (Bebb), District Attorney General of 10<sup>th</sup> Judicial District, and that the Office of the Tennessee Comptroller of the Treasury would be assisting in the investigation.

The investigation was initiated in response to findings contained in an audit report released by the Comptroller on July 10, 2012, media reports of alleged wrongdoing by Bebb and other employees of the 10<sup>th</sup> Judicial District, and other complaints received by the TBI. These reports and complaints related to both the District Attorney's Office and the Drug Task Force (DTF) in the 10<sup>th</sup> Judicial District.

Based on the reports and complaints, the Attorney General, pursuant to his authority under Tenn. Code Ann. § 8-6-112(e), asked the TBI to investigate allegations involving Bebb related to the following subjects:

- Abuse of prosecutorial authority;
- Unauthorized disclosure of material from TBI investigative file;
- Improper influence of grand jury by assistant district attorney;
- Impersonation of an attorney by detective;
- Perjury in deposition testimony;
- Use of Economic Crime Funds, automobile provided by DTF, and filing of expense claims; and
- Supervision of alleged wrongful conduct by DTF agents.

The TBI's investigation and Attorney General's review focused on whether sufficient evidence warrants the institution of criminal proceedings against Bebb.

At or around the initiation of the investigation by the Attorney General and the TBI, the two offices were informed that, in response to a request by Bebb, former Tennessee Attorney General Paul G. Summers had been appointed pursuant to Tenn. Code Ann. § 8-7-106(a) to investigate the allegations raised about the 10<sup>th</sup> Judicial District. It was agreed that the investigation already initiated by the Attorney General and the TBI would continue and, at its conclusion, any potential criminal charges not involving Bebb would be referred to Summers for review and prosecution, if appropriate.<sup>1</sup>

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<sup>1</sup> Pursuant to Tenn. Code Ann. § 8-7-106, another district attorney general or other attorney may be appointed to handle cases in which the district attorney general is unable to prosecute because of a conflict of interest or other reason. Such special prosecutors have the same authority as the elected district attorney general with respect to the case they are appointed to handle. Summers has since been appointed senior judge by the Tennessee Supreme Court and has withdrawn as prosecutor in this matter. No successor prosecutor has been designated.

## **I. SCOPE OF THE INVESTIGATION**

TBI assigned three agents to this case. The Attorney General assigned two investigators to assist TBI and an attorney to review and evaluate the evidence and advise the investigators. The agents and investigators interviewed sixty one witnesses. Those witnesses included auditors with the Comptroller's Office who examined the books and records in Bebb's office and the DTF, officers and investigators with sheriff and police departments in the 10<sup>th</sup> Judicial District, victims in the incidents related to the allegations, and other persons with knowledge related to the matters addressed in this report. In addition, the agents and investigators reviewed the following relevant documents: Comptroller's report related to audits of Bebb's office, working papers used to prepare those reports, DTF files, and the investigative case files of TBI and local law enforcement agencies related to the allegations of abuse of prosecutorial authority.

## **II. AUTHORITY OF THE ATTORNEY GENERAL AND THE DISTRICT ATTORNEY GENERAL**

Pursuant to Tenn. Code Ann. § 8-6-112, the Attorney General is authorized to investigate and prosecute crimes committed by district attorneys general. The Attorney General does not have statutory authority for oversight of management decisions, the exercise of prosecutorial discretion, or any other actions by district attorneys general in the absence of criminal activity.

The district attorney general is the chief law enforcement officer in the judicial district and is responsible for the prosecution of all criminal cases in the district.<sup>2</sup> A district attorney general possesses wide discretion in performing the duties of the office. Decisions within the discretion of a district attorney general include whether a person should be charged, which charges should be brought, and whether to take a case to trial, accept a plea bargain, or dismiss the charges.<sup>3</sup>

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<sup>2</sup> Pursuant to Tenn. Code Ann. § 8-7-103(1), each district attorney general:

Shall prosecute in the courts of the district all violations of the state criminal statutes and perform all prosecutorial functions attendant thereto, including prosecuting cases in a municipal court where the municipality provides sufficient personnel to the district attorney general for that purpose.

<sup>3</sup> In describing the authority of a district attorney general, the Tennessee Supreme Court in *Dearborne v. State*, 575 S.W.2d 259, 262 (1978), said a district attorney general

is answerable to no superior and has virtually unbridled discretion in determining whether to prosecute and for what offense. No court may interfere with his discretion to prosecute, and in the formulation of this decision he or she is answerable to no one. In a very real sense this is the most powerful office in Tennessee today.

### **III. LEGAL STANDARDS**

This Office considered the following statutory offenses in evaluating the factual record developed in this investigation:

1. Theft. A person commits theft of property if, with intent to deprive the owner of property, the person knowingly obtains or exercises control over the property without the owner's effective consent. Tenn. Code Ann. § 39-14-103. A person commits theft of services who: (1) intentionally obtains services by deception, fraud, coercion, forgery, false statement, false pretense or any other means to avoid payment for the services; (2) having control over the disposition of services to others, knowingly diverts those services to the person's own benefit or to the benefit of another not entitled thereto; or (3) knowingly absconds from establishments where compensation for services is ordinarily paid immediately upon the rendering of them, including, but not limited to, hotels, motels and restaurants, without payment or a bona fide offer to pay. Tenn. Code Ann. § 39-14-104.

2. Official Misconduct. A public servant commits an offense who, with intent to obtain a benefit or to harm another, intentionally or knowingly: (1) commits an act relating to the servant's office or employment that constitutes an unauthorized exercise of official power; (2) commits an act under color of office or employment that exceeds the servant's official power; (3) refrains from performing a duty that is imposed by law or that is clearly inherent in the nature of the public servant's office or employment; (4) violates a law relating to the public servant's office or employment; or (5) receives any benefit not authorized by law. Tenn. Code Ann. § 39-16-402.

3. Bribery. A person commits bribery who: (1) offers, confers, or agrees to confer any pecuniary benefit upon a public servant with the intent to influence the public servant's vote, opinion, judgment, exercise of discretion or other action in the public servant's official capacity; or (2) while a public servant, solicits, accepts or agrees to accept any pecuniary benefit upon an agreement or understanding that the public servant's vote, opinion, judgment, exercise of discretion or other action as a public servant will thereby be influenced. Tenn. Code Ann. § 39-16-102.

4. Extortion. A person commits extortion who uses coercion upon another person with the intent to: (1) obtain property, services, any advantage or immunity; or (2) restrict unlawfully another's freedom of action. Tenn. Code Ann. § 39-14-112. Coercion means a threat, however communicated, to commit any offense; wrongfully accuse any person of any offense; expose any person to hatred, contempt, or ridicule; harm the credit or business repute of any person; or take or withhold action as a public servant or cause a public servant to take or withhold action. Tenn. Code Ann. § 39-11-106(a)(3).

5. Aggravated Perjury. A person commits aggravated perjury who, with the intent to deceive, (1) makes a false statement, under oath; (2) makes a false statement, under oath, that confirms the truth of a false statement previously made and the statement is required or authorized by law to be made under oath; (3) makes a false statement, not under oath, but on an official document required or authorized by law to be made under oath and stating on its face

that a false statement is subject to the penalties of perjury; or (4) makes a false statement, not under oath, but in a declaration stating on its face that it is made under penalty of perjury; and (4) the false statement is made during or in connection with an official proceeding; and (5) the false statement is material. Tenn. Code Ann. §§ 39-16-702, -703. An official proceeding is any type of administrative, executive, judicial, or legislative proceeding that is conducted before a public servant authorized by law to take statements under oath in that proceeding. Tenn. Code Ann. § 39-16-701(3). A statement is material if it could have affected the course or outcome of the official proceeding, irrespective of its admissibility under the rules of evidence. Tenn. Code Ann. § 39-16-701(1).

6. Improper Influence of Juror. A person commits this offense who privately communicates with a juror with intent to influence the outcome of the proceeding on the basis of considerations other than those authorized by law. Tenn. Code Ann. § 39-16-509.

7. Criminal Responsibility for the Conduct of Another. A person is criminally responsible for an offense committed by the conduct of another if (1) acting with the culpability required for the offense, the person causes or aids an innocent or irresponsible person to engage in conduct prohibited by the definition of the offense; (2) acting with intent to promote or assist the commission of the offense, or to benefit in the proceeds of the offense, the person solicits, directs, aids, or attempts to aid another person to commit the offense; or (3) having a duty imposed by law or voluntarily undertaken to prevent commission of the offense and acting with intent to benefit in the proceeds or results of the offense, or to promote or assist its commission, the person fails to make a reasonable effort to prevent commission of the offense. Tenn. Code Ann. § 39-11-402.

#### **IV. CONCLUSIONS**

Based on the evidence obtained during the investigation, none of the allegations reviewed warrants the institution of criminal proceedings against District Attorney Bebb, for the reasons stated below. The conclusions in this report do not address any potential criminal wrongdoing by other employees of the District Attorney General's office in the 10<sup>th</sup> Judicial District or of the Drug Task Force. A copy of the TBI's investigative file will be provided to the relevant prosecutorial authority to review and determine whether criminal action should be taken against any other employees.<sup>4</sup>

#### **A. ALLEGATIONS RELATED TO ABUSE OF PROSECUTORIAL AUTHORITY**

The allegations related to Bebb's abuse of his prosecutorial authority have been divided into the following categories:

1. Declining Prosecution in Cases Involving Law Enforcement Officers. The TBI investigated a number of instances in which it was alleged that Bebb improperly declined to

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<sup>4</sup> See footnote 1 and accompanying text.

prosecute cases involving law enforcement officers. As noted above, a district attorney general “has virtually unbridled discretion in determining whether to prosecute and for what offense.” *Dearborne v. State*, 575 S.W.2d 259, 262 (1978). The investigation uncovered no evidence that would suggest that Bebb improperly interfered in investigations of these matters or that his decisions not to prosecute were based upon illegal motives.<sup>5</sup> In some cases, while not prosecuting, he referred the matters to the appropriate law enforcement employer for disciplinary action. Bebb’s decisions fall within the exercise of his prosecutorial authority.

2. Allegations of Questionable Dispositions of Criminal Cases. It was alleged that Bebb gave more favorable dispositions of criminal cases than are normally given in similar types of cases to two defendants:

- A defendant whose father was a Cleveland businessman was charged with a drug offense. Bebb disposed of the case by agreeing to allow the defendant to be placed on judicial diversion.<sup>6</sup> There were allegations that Bebb agreed to such a disposition after the defendant’s father agreed to make a contribution to the 10<sup>th</sup> Judicial District Drug Fund. The criminal records were expunged after the completion of judicial diversion.
- Jeff Young. Young served as the Bradley County Emergency Management Director from 1996 through 2004. In August 2005, while Bebb’s predecessor was in office, Young was indicted on charges of theft and official misconduct. In July 2007, after Bebb took office, the charges were dismissed.

The investigation uncovered no evidence that would warrant prosecuting Bebb based on the disposition of either case.

With respect to the judicial diversion matter, there was no evidence of any payment to the drug fund or of any intent by Bebb to obtain or receive any benefit because of the agreed disposition in this case that would warrant prosecution for bribery or official misconduct. Moreover, the evidence obtained in the investigation indicates that an agreement to allow the defendant to be placed on judicial diversion was the standard disposition offered to persons in the defendant’s situation.

With respect to the Young matter, the evidence obtained in the course of the investigation indicates that one of Bebb’s assistants made the decision to dismiss the case after the assistant concluded there was insufficient evidence to proceed with the prosecution. There is nothing to indicate that the decision was unlawfully made or that Bebb directed his assistant to take such action.

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<sup>5</sup> Illegal motives for a decision not to prosecute would include decisions based upon facts constituting the offenses of bribery, official misconduct or extortion, the elements of which are described in Section III.2, 3 and 4.

<sup>6</sup> Judicial diversion is available for certain types of less serious and nonviolent offenses. Under such a disposition, a defendant enters a guilty plea and is placed on probation for a specified period. The court takes the plea but does not enter a judgment of conviction in the case. If the defendant successfully completes probation, the case is dismissed, and the defendant can move to have the record expunged. Tenn. Code Ann. § 40-35-313 (Supp. 2012).

3. Allegations of Threatening Criminal Prosecution for the Purpose of Assisting a Party in a Divorce Proceeding in Obtaining a More Favorable Child Custody Arrangement. In the course of its investigation, the TBI received an allegation that Bebb threatened a defendant with criminal prosecution unless he agreed to a particular child custody arrangement in a pending divorce proceeding.

The investigation indicated that Bebb informed the defendant that Bebb would not seek an indictment for wiretapping activities that the defendant committed in the course of his domestic dispute if the defendant agreed to a joint custody arrangement with his estranged wife. When the defendant declined, Bebb presented the matter to the grand jury, which issued an indictment. The defendant pled guilty and was placed on judicial diversion, following which the case was dismissed and records expunged.

The evidence obtained during the investigation was reviewed to determine whether it warranted prosecution for extortion under Tenn. Code Ann. § 39-14-112. A charge of extortion can be brought if a person uses coercion upon another person with intent either to obtain property, services, any advantage or immunity or to restrict unlawfully another person's freedom of action. While Bebb's proposed disposition of the wiretapping charges is not a procedure to be recommended, it does not warrant the institution of criminal proceedings against Bebb. There is no evidence that Bebb's actions involved an intent by him to obtain property, services, advantage, or immunity. As to unlawful restrictions of another person's action, Tennessee courts have provided no guidance on the scope or meaning of that language, and in any event, the evidence suggests that Bebb, while inappropriately linking the criminal and civil proceedings, lacked the requisite intent for such a charge.

## **B. UNAUTHORIZED DISCLOSURE OF TBI INVESTIGATIVE RECORDS**

It was alleged that Bebb improperly gave DTF Agent Bobby Queen material from TBI investigative records related to a domestic violence incident involving Queen, and in particular a summary of the investigation from the file.

All TBI investigative records are confidential and are not open to inspection by the general public. With limited exceptions that are not relevant here, the records cannot be disclosed except pursuant to a subpoena or court order. Tenn. Code Ann. § 10-7-504(a)(2).

The authority of a district attorneys general to disclose TBI investigative records is limited to disclosure of evidence by the state pursuant to Tenn. R. Crim P. 16 or the use of evidence at trial. Disclosure of TBI records by a district attorney general outside the discharge of official duties could constitute an unauthorized exercise of official power or an act exceeding the district attorney's official power. If done intentionally or knowingly with the intent to either obtain a benefit or inflict harm, a district attorney general could be subject to prosecution for official misconduct under Tenn. Code Ann. § 39-16-402.

The investigation confirmed that after the TBI completed its investigation of Queen, Queen came to Bebb's office and left with a copy of a summary of the investigation. Queen was

seeking access to this information, not in any official capacity, but rather in the private capacity of seeking new employment, so that he could show prospective employers that the investigation had ended and that he was not going to be charged criminally.

The evidence gathered by the investigation about the nature, content and origin of the document that Queen obtained was conflicting. Accordingly, in pursuing a charge of official misconduct, there is insufficient evidence to show that the document fell within the scope of TBI investigative records covered by the confidentiality requirement of Tenn. Code Ann. § 10-7-504(a)(2). In any event, because the conduct in question occurred in 2008, any attempt to prosecute would be barred by the two-year statute of limitations in effect at that time for official misconduct. *See* Tenn. Code Ann. § 40-2-101(b)(4).

### **C.**

#### **ALLEGATIONS OF IMPROPER INFLUENCE OF GRAND JURY**

It was alleged that in July 2010, one of the assistant district attorneys in Bebb's office influenced a grand jury proceeding related to an investigation of possible campaign finance law violations by the McMinn County Sheriff. The alleged campaign law violations had been investigated by the district attorney general of Knox County, who had been appointed to handle the matter pursuant to Tenn. Code Ann. § 8-7-106. On the day the matter was scheduled to be presented, the assistant district attorney allegedly informed the grand jury in session that a district attorney general *pro tem* was going to present a matter and that there was nothing to it. The grand jury declined to indict the sheriff.

Tenn. Code Ann. § 39-16-509 prohibits any person from privately communicating with a juror with the intent to influence the outcome of the proceeding. Violations are punishable as Class A misdemeanors. However, there is no allegation of a private communication with a juror, as the allegation relates only to statements made to the entire grand jury while in session. Moreover, the investigation was unable to confirm that the alleged communication actually took place. In any event, the investigation did not uncover any evidence that Bebb had any contact with any member of the grand jury in connection with this matter or that he solicited, directed, aided, or attempted to aid any person to take action to unlawfully influence the grand jury.

### **D.**

#### **ALLEGATIONS RELATED TO IMPERSONATION OF AN ATTORNEY**

It was alleged that from November 2008 through January 2009, McMinn County Detective Pat Henry (Henry) improperly posed as an attorney in an effort to induce John Edward Dawson (Dawson) to provide evidence implicating Dawson in theft and drug-related cases that were pending in the Monroe County Criminal Court. The details of the scheme are set forth in an opinion of the Tennessee Court of Criminal Appeals in which the court described the conduct of the Monroe County law enforcement officials as "so egregious that it simply cannot go unchecked" and vacated Dawson's guilty pleas on the theft and drug charges based on its findings that Henry's impersonation of an attorney was improper. *State v. John Edward Dawson*, No. E2009-02469-CCA-R3-CD, 2011 WL 208076, \*11 (Tenn. Crim. App. Jan. 13,

2011)).<sup>7</sup> In a separate criminal investigation, Henry posed as an attorney hoping to induce Dawson to implicate himself in an unsolved murder. A trial court subsequently dismissed the murder indictment lodged against Dawson.

It is unlawful for any person who is not licensed to do so, to practice or pretend to be licensed to practice a profession for which a license certifying the qualifications of the licensee to practice the profession is required. Tenn. Code Ann. § 39-16-302. Bebb could be held criminally responsible for Henry's conduct under Tenn. Code Ann. § 39-11-402 (criminal responsibility for the conduct of another) if Bebb solicited, directed, aided, or attempted to aid Henry to carry out his scheme to impersonate a lawyer. The TBI investigation uncovered no evidence to warrant such a prosecution. There is no evidence that Bebb was a participant in the scheme or was aware of the scheme. Rather, as the Court of Criminal Appeals noted in its opinion, Bebb instructed the Monroe County Sheriff in November 2008 to stop working with an informant who, unbeknownst to Bebb, was assisting Henry in the impersonation of an attorney. *State v. Dawson*, 2011 WL 208076, at \*6-\*7. There is nothing to indicate that Bebb knew that the Sheriff's office had subsequently disregarded those instructions.

There is also no evidence to indicate that Bebb committed official misconduct in not pursuing criminal charges against Henry. As district attorney general, Bebb had broad discretion in deciding whether to prosecute Henry for official misconduct (Tenn. Code Ann. § 39-16-402) or impersonation of a licensed professional (Tenn. Code Ann. § 39-16-302). There is no evidence that Bebb's decision was based upon illegal motives subject to criminal prosecution, such as bribery, official misconduct or extortion. Bebb's decision, therefore, was a matter of prosecutorial discretion.

#### **E.**

#### **ALLEGATIONS OF PERJURY IN DEPOSITION TESTIMONY**

It was alleged that Bebb gave false testimony in a deposition taken in connection with a wrongful termination lawsuit filed by former DTF agent Samuel McNelley. In the deposition, Bebb agreed with the questioning attorney's characterization that Bebb accepted former DTF Director Mike Hall's word that McNelley was a disruptive influence at DTF. It was alleged that Bebb's statement was false because at a December 4, 2009, meeting at DTF, Bebb stated that he had received the same information from other people.

Aggravated perjury requires proof of the making of a false statement. Reading the relevant portion of the deposition, it is apparent that Bebb did not make a false statement and did not intend to deceive. The attorney's question was intended to elicit information concerning the person or persons who had told Bebb about McNelley. Bebb started to answer the question and the information he provided was true. He then became sidetracked when he attempted to explain his answer more fully. The attorney then shifted the focus of the inquiry to another area before Bebb finished his answer and never returned to that line of inquiry. Since there is no evidence

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<sup>7</sup> The Court of Criminal Appeals also described the officials' conduct as "abhorrent," "completely reprehensible," and "unconscionable." *State v. Dawson*, 2011 WL 208076, at \*11. This report relies in part on the facts contained in the Court of Criminal Appeals' decision.



that Bebb made a false statement, there is no basis to warrant prosecuting Bebb for aggravated perjury under Tenn. Code Ann. § 39-16-703.<sup>8</sup>

**F.**

**ALLEGATIONS RELATED TO THE USE OF ECONOMIC CRIME FUNDS, THE  
AUTOMOBILE PROVIDED BY DTF, AND FILING OF EXPENSE CLAIMS**

None of the facts described in this section rise to a level that would support or warrant criminal prosecution. With respect to these allegations, however, Bebb and his office engaged in practices and record keeping that evidenced poor judgment, deficient record keeping, and insufficient attention to the appropriate use of public resources.,.

1. Allegations that Bebb Misused Money in the Economic Crime Fund. It was alleged that Bebb misused economic crime funds to cover the cost of office dinners. Purchasing records from McMinn County show that Bebb authorized three payments from the Economic Crime Fund to cover the cost of the office's annual meetings and Christmas dinners: \$1,217.50 on December 15, 2008; \$1,507.00 on December 21, 2009; and \$1,435.00 on December 13, 2010. All of these functions were held at the Robert E. Lee Restaurant in Athens.

The legislature established the "Economic Crime Fund" in 1984 with the enactment of the Fraud and Economic Crimes Prosecution Act (the "Act"), Tenn. Code Ann. §§ 40-3-201 to -210. The Act's purpose is to provide district attorneys general with financial resources to effectively prosecute fraud and other economic crimes. *See* Tenn. Code Ann. § 40-3-202. Fees assessed against defendants in bad check, forgery and other theft-related prosecutions provide the source of funding. Tenn. Code Ann. § 40-3-204. Under the Act, uses for such funds include, but are not limited to, fulfilling the prosecutorial duties of the office, paying expenses related to training, enhancement of other resources available to combat white-collar crime, and hiring expert witnesses. Tenn. Code Ann. § 40-3-202. The only express prohibition involving the use of such funds is that such funds may not be used to supplement salaries, except as provided by the Act. Tenn. Code Ann. § 40-3-209(b).

Based on the evidence that has been obtained over the course of the investigation, prosecution of Bebb for theft under Tenn. Code Ann. § 39-14-103 is unwarranted. Theft requires proof of a taking or exercise of control of property without the effective consent of the owner, which in this case is the State. Under the broad language of Tenn. Code Ann. § 40-3-202, a district attorney general may arguably use the funds for any office-related purpose, except for certain payments that are related to salary. Since there is a plausible argument that the statute has given effective consent to the use of funds described above, it is unlikely that a successful theft prosecution could be maintained.

2. Use of the Automobile Provided by DTF. It has been alleged that Bebb improperly used an automobile furnished by the DTF. That vehicle had been seized by DTF and forfeited

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<sup>8</sup> Tenn. Code Ann. § 39-16-703 enhances the penalty for perjury, Tenn. Code Ann. § 39-16-702, where, as alleged here, the false statement is made during or in connection with an official proceeding. Because the investigation found no evidence that Bebb made a false statement or that he did so with intent to deceive, there is likewise no basis to warrant a prosecution for perjury under § 39-16-702.

because of its use in connection with violations of the drug laws. Bebb used the automobile from late 2009 until early 2012.

State law provides that vehicles seized and forfeited by DTF shall be sold at public sale. Tenn. Code Ann. § 53-11-201(b)(1). *See also id.* § 40-33-211(e). That same statute makes an exception to allow such vehicles to be used in local drug enforcement programs for up to five years. *Id.* § 53-11-201(b)(2)(C). The evidence indicates that Bebb used the automobile for other business that was official but was not related to the drug enforcement program. There is no evidence from the investigation that Bebb made personal use of the vehicle.

Based on the evidence obtained during the investigation, prosecution of Bebb for theft under Tenn. Code Ann. §§ 39-14-103 and -104 for use of the automobile furnished by DTF is not warranted. Tenn. Code Ann. § 39-14-107 provides that it is a defense to a prosecution for theft if the defendant acted under an honest claim of right to the property or service involved or if the defendant acted with an honest belief that he had the right to obtain or exercise control over it. The evidence indicates that Bebb honestly but mistakenly believed that DTF had purchased the forfeited vehicle and therefore he had a right to use the automobile for any official business, not just for drug enforcement. There is no evidence to indicate that Bebb made personal use of the automobile.

Furthermore, theft of services under Tenn. Code Ann. § 39-14-104 requires proof that the defendant used fraud, coercion, deceptive or other means to avoid payment, the wrongful diversion of services for personal benefit or the benefit of another, or absconding from an establishment to avoid paying for services. There is no evidence that Bebb engaged in any such conduct.

3. Submission of Claims for Mileage Reimbursement Related to the Use of the DTF Automobile. It has been alleged that Bebb wrongfully submitted claims for reimbursement for mileage that was related to his use of the automobile that was furnished by DTF. Records indicate that from October 2009 through March 2012 Bebb submitted claims for \$2,859.50 in mileage claims. Some of that mileage related to use of the automobile that was furnished by DTF.

Based on the evidence that was obtained during the investigation, prosecution of Bebb for theft under Tenn. Code Ann. § 39-14-103 for submission of these expense claims is unwarranted. Theft requires proof of knowing and intentional action. The evidence indicates that Bebb used his personal automobile and the DTF automobile for official business, thus leading to confusion concerning the preparation of expense claims. The evidence indicates that his secretary prepared the expense claims and that Bebb signed and submitted them without careful review. In addition, during the time Bebb had possession of the DTF automobile, Bebb said that he used personal funds to pay for gasoline and oil changes for that vehicle. He also said that he did not submit mileage claims for business use of his personal automobile for one year. At best, such conduct proves negligence, not intentional wrongdoing.

The preparation, review and submission of mileage reimbursement claims in this matter lacked the documentation and formality necessary to ensure governmental accountability. These deficiencies, however, do not rise to the level of a prosecutorial offense.

**G.**  
**ALLEGATIONS OF WRONGFUL CONDUCT BY PAST AND PRESENT DTF AGENTS**

The investigation reviewed allegations concerning misuse of DTF credit cards and possible misconduct by DTF agents in connection with the seizure and forfeiture of cash, automobiles, and other personal property. The authority of this Office to investigate and prosecute such matters is limited to matters in which a district attorney general might be criminally responsible for such acts. Because Bebb is the chairman of the DTF Board of Directors, the focus of the investigation conducted for this Office was whether Bebb directed or participated in any of the alleged wrongful activities. The investigation concluded that Bebb had no direct or supervisory connection to any such activities by other agents. Information from the investigation related to such activities will be provided by the Office to the appropriate prosecutorial authority pursuant to Tenn. Code Ann. § 8-7-106.<sup>9</sup>

MARCH 25, 2013

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<sup>9</sup> See footnote 1 and accompanying text.